



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2017-0857]

RIN 1625-AA09

Drawbridge Operation Regulation; St. Johns River, Putnam County, FL

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is modifying the operating schedule that governs the Buffalo Bluff CSX Railroad Bridge across the St. Johns River, mile 94.5, at Satsuma, Putnam County, FL. The rule allows the bridge to be remotely monitored and operated from the CSX Railroad Bridge across the Ortega River (McGirts Creek) located at mile 1.1 on the Ortega River. The rule also allows the draw to remain in the full, open position unless a train is in the circuit.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>. Type USCG-2017-0857 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking.

FOR FURTHER INFORMATION CONTACT: If you have questions on this

rule, call or e-mail LT Emily T. Sysko, Sector Jacksonville, Waterways Management Division, U.S. Coast Guard; telephone 904-714-7616, e-mail Emily.T.Sysko@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
OMB	Office of Management and Budget
NPRM	Notice of proposed rulemaking (Advance, Supplemental)
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

On April 27, 2018, we published a temporary deviation entitled “Drawbridge Operation Regulation; St. Johns River, Putnam County, FL” in the Federal Register (82 FR 08866). We received no comments on this rule. On March 5, 2019, we published a notice of proposed rulemaking entitled “Drawbridge Operation Regulation; St. Johns River, Putnam County, FL” in the Federal Register (82 FR 03904). We received no comments on this rule.

III. Legal Authority and Need for Rule

The bridge owner, CSX Transportation, requested the Coast Guard consider allowing remote operation of the Buffalo Bluff CSX Railroad Bridge across the St. Johns River, mile 94.5, at Satsuma, Putnam County, Florida. The Buffalo Bluff CSX Railroad Bridge across the St. Johns River, Putnam is a bascule bridge. The bridge is currently manned and maintained in the open position. It has a vertical clearance of 7 feet at mean high water in the closed position and a

horizontal clearance of 90 feet.

The Coast Guard is issuing this rule under authority 33 U.S.C. 499.

IV. Discussion of Comments, Changes and the Final Rule

The Coast Guard is modifying the operating schedule that governs the Buffalo Bluff CSX Railroad Bridge across St. Johns River, mile 94.5, at Satsuma, Putnam County, FL. The bridge is currently manned and maintained in the open position.

This rule allows the bridge to be remotely monitored and operated. Visual monitoring of the waterway shall be maintained with the use of cameras and the detection of vessels under the span shall be accomplished with detection sensors. Marine radio communication shall be maintained with mariners near the bridge for the safety of navigation. The remote tender may also be contacted via telephone at (386) 649-8538. The span is normally in the fully open position and will display green lights to indicate that the span is fully open. When a train approaches, the remote tender shall monitor for vessels approaching the bridge. The remote tender shall warn approaching vessels via marine radio, channel 9 VHF of a bridge lowering. Provided the sensors do not detect a vessel under the span, the tender shall initiate the span lowering sequence, which includes the sounding of a horn and the displaying of red lights. The span will remain in the down position for a minimum of eight minutes or for the entire time the approach track circuit is occupied. After the train has cleared the bridge track circuit, the span shall open and the green lights will be displayed. This rule allows vessels to pass through the bridge while taking into account the reasonable needs of other

modes of transportation.

On April 27, 2017, the Coast Guard published a notice of temporary deviation from drawbridge regulation with request for comments in the Federal Register (82 FR 08886) to test proposed changes. The Coast Guard provided a comment period of 109 days and no comments were received during the test period. On March 5, 2019, we published a notice of proposed rulemaking entitled “Drawbridge Operation Regulation; St. Johns River, Putnam County, FL” in the Federal Register (82 FR 03904). The Coast Guard provided a comment period of 60 days and no comments were received.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders, and we discuss First Amendment rights of protesters.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget (OMB) and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the following reasons: (1) the draw will remain open for vessel traffic except when trains are passing; and (2) vessels that can transit under the bridge without an opening may do so at anytime.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Government

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the

relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and U.S. Coast Guard Environmental Planning Policy COMDTINST 5090.1 (series), which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321-4370f). We have made a determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule promulgates the operating regulations or procedures for drawbridges. This action is categorically excluded from further review, under paragraph L49, of Chapter 3, Table3-1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

A preliminary Record of Environmental Consideration and a

Memorandum for the Record are not required for this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters.

Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; and Department of Homeland Security Delegation No. 0170.1.

2. Amend §117.325 by adding paragraph (c) to read as follows:

§117.325 St. Johns River.

(c) The draw for the Buffalo Bluff CSX automated Railroad Bridge, St. Johns River, mile 94.5 at Satsuma, Putnam County, FL shall operate as follows:

(1) The bridge is not tendered locally, but will be operated and monitored by a remote tender.

- (2) The bridge shall have local and mechanical override capabilities over the remote operation.
- (3) Marine radio communication shall be maintained with mariners near the bridge for the safety of navigation. Visual monitoring of the waterway shall be maintained with the use of cameras and the detection of vessels under the span shall be accomplished with detection sensors.
- (4) The span is normally in the fully open position and will display green lights to indicate that the span is fully open.
- (5) When a train approaches, the remote tender shall monitor for vessels approaching the bridge. The remote tender shall warn approaching vessels via marine radio, channel 9 VHF of a bridge lowering. The remote tender may also be contacted via telephone at (386) 649-8538.
- (6) Provided the sensors do not detect a vessel under the span, the tender shall initiate the span lowering sequence, which includes the sounding of a horn and the displaying of red lights. The span will remain in the down position for a minimum of eight minutes or for the entire time the approach track circuit is occupied.
- (7) After the train has cleared the bridge track circuit, the span shall open and the green lights will be displayed.

Dated: June 11, 2019.

Peter J. Brown,

Rear Admiral, U.S. Coast Guard,

Commander, Seventh Coast Guard District.

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